

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MARILYN PEREZ,

Plaintiff,

-against-

THE CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT, and DEPUTY INSPECTOR
KEITH WALTON,

Defendants.

DEFENDANT DEPUTY
INSPECTOR KEITH
WALTON'S
ANSWER TO
PLAINTIFFS' COMPLAINT

Civil Action No.:
18-CV-09532 (VEC)

-----X
Defendant, DEPUTY INSPECTOR KEITH WALTON (hereinafter referred to as "Walton") by his attorneys, La Pietra & Krieger, P.C., answering the Summons and Complaint in the above entitled action, states upon information and belief:

ANSWER

1. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "1" of the complaint.
2. Admits the allegations set forth in paragraph "2" of the complaint.
3. Admits the allegations set forth in paragraph "3" of the complaint.
4. Admits the allegations set forth in paragraph "4" of the complaint.
5. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "5" of the complaint.
6. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "6" of the complaint.
7. Admits the allegations set forth in paragraph "7" of the complaint.
8. Admits the allegations set forth in paragraph "8" of the complaint.
9. Denies the allegations set forth in paragraph "9" of the complaint..
10. Denies the allegations set forth in paragraph "10" of the complaint.
11. Denies the allegations set forth in paragraph "11" of the complaint.
12. Denies the allegations set forth in paragraph "12" of the complaint
13. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "13" of the complaint and respectfully refers all questions of law to the Court.
14. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "14" of the complaint and respectfully refers all questions of law to the Court.

15. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "15" of the complaint.

16. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "16" of the complaint.

17. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "17" of the complaint.

18. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "18" of the complaint and respectfully refers all questions of law to the Court.

19. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "19" of the complaint and respectfully refers all questions of law to the Court.

20. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "20" of the complaint.

21. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "21" of the complaint.

22. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "22" of the complaint.

23. Admits the allegations set forth in paragraph "23" of the complaint.

24. Admits the allegations set forth in paragraph "24" of the complaint.

25. Admits the allegations set forth in paragraph "25" of the complaint.

26. Admits the allegations set forth in paragraph "26" of the complaint.

27. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "27" of the complaint.

28. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "28" of the complaint.

29. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "29" of the complaint.

30. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "30" of the complaint.

31. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "31" of the complaint.

32. Denies having knowledge or information sufficient to form a belief as to the allegations set

forth in paragraph "32" of the complaint.

33. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "33" of the complaint.

34. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "34" of the complaint.

35. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "35" of the complaint.

36. Denies the allegations set forth in paragraph "36" of the complaint.

37. Denies the allegations set forth in paragraph "37" of the complaint.

38. Denies the allegations set forth in paragraph "38" of the complaint.

39. Denies the allegations set forth in paragraph "39" of the complaint.

40. Denies the allegations set forth in paragraph "40" of the complaint.

41. Denies the allegations set forth in paragraph "41" of the complaint.

42. Denies the allegations set forth in paragraph "42" of the complaint.

43. Denies the allegations set forth in paragraph "43" of the complaint.

44. Denies the allegations set forth in paragraph "44" of the complaint.

45. Denies the allegations set forth in paragraph "45" of the complaint.

46. Denies the allegations set forth in paragraph "46" of the complaint.

47. Denies the allegations set forth in paragraph "47" of the complaint.

48. Denies the allegations set forth in paragraph "48" of the complaint.

49. Denies the allegations set forth in paragraph "49" of the complaint.

50. Denies the allegations set forth in paragraph "50" of the complaint.

51. Denies the allegations set forth in paragraph "51" of the complaint.

52. Denies the allegations set forth in paragraph "52" of the complaint.

53. Denies the allegations set forth in paragraph "53" of the complaint.

54. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "54" of the complaint.

55. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "55" of the complaint.

56. Denies the allegations set forth in paragraph "56" of the complaint.

57. Admits the allegations set forth in paragraph "57" of the complaint except affirmatively

states that Walton was acquitted on all counts following a Jury Trial in Bronx County on October 22, 2018.

58. Denies the allegations set forth in paragraph "58" of the complaint.

59. Denies the allegations set forth in paragraph "59" of the complaint.

60. Denies the allegations set forth in paragraph "60" of the complaint.

61. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "61" of the complaint.

62. Denies the allegations set forth in paragraph "62" of the complaint.

63. Denies the allegations set forth in paragraph "63" of the complaint.

64. Denies the allegations set forth in paragraph "64" of the complaint.

65. Denies the allegations set forth in paragraph "65" of the complaint.

66. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "66" of the complaint and respectfully refers all questions of law to the Court.

67. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "67" of the complaint and respectfully refers all questions of law to the Court.

68. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "68" of the complaint and respectfully refers all questions of law to the Court.

69. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "69" of the complaint and respectfully refers all questions of law to the Court.

70. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "70" of the complaint and respectfully refers all questions of law to the Court.

71. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "71" of the complaint and respectfully refers all questions of law to the Court.

72. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "72" of the complaint and respectfully refers all questions of law to the Court.

73. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "73" of the complaint and respectfully refers all questions of law to the Court.

74. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "74" of the complaint and respectfully refers all questions of law to the Court.

75. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "75" of the complaint and respectfully refers all questions of law to the Court.

76. Denies the allegations set forth in paragraph "76" of the complaint.

- 77. Denies the allegations set forth in paragraph "77" of the complaint.
- 78. Denies the allegations set forth in paragraph "78" of the complaint.
- 79. Denies the allegations set forth in paragraph "79" of the complaint.
- 80. Denies the allegations set forth in paragraph "80" of the complaint.
- 81. Denies the allegations set forth in paragraph "81" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' FIRST CAUSE OF ACTION

- 82. With respect to paragraph "82" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.
- 83. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "83" of the complaint and respectfully refers all questions of law to the Court.
- 84. Denies the allegations set forth in paragraph "84" of the complaint.
- 85. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "85" of the complaint and respectfully refers all questions of law to the Court.
- 86. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "86" of the complaint and respectfully refers all questions of law to the Court.
- 87. Denies the allegations set forth in paragraph "87" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' SECOND CAUSE OF ACTION

- 88. With respect to paragraph "88" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.
- 89. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "89" of the complaint and respectfully refers all questions of law to the Court.
- 90. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "90" of the complaint and respectfully refers all questions of law to the Court.
- 91. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "91" of the complaint and respectfully refers all questions of law to the Court.
- 92. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "92" of the complaint and respectfully refers all questions of law to the Court.
- 93. Denies the allegations set forth in paragraph "93" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' THIRD CAUSE OF ACTION

94. With respect to paragraph "94" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein. .

95. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "95" of the complaint and respectfully refers all questions of law to the Court.

96. Denies the allegations set forth in paragraph "96" of the complaint.

97. Denies the allegations set forth in paragraph "97" of the complaint.

98. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "98" of the complaint and respectfully refers all questions of law to the Court.

99. Denies the allegations set forth in paragraph "99" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' FOURTH CAUSE OF ACTION

100. With respect to paragraph "100" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

101. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "101" of the complaint and respectfully refers all questions of law to the Court.

102. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "102" of the complaint and respectfully refers all questions of law to the Court.

103. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "103" of the complaint and respectfully refers all questions of law to the Court.

104. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "104" of the complaint and respectfully refers all questions of law to the Court.

105. Denies the allegations set forth in paragraph "105" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' FIFTH CAUSE OF ACTION

106. With respect to paragraph "106" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

107. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "107" of the complaint and respectfully refers all questions of law to the Court.

108. Denies having knowledge or information sufficient to form a belief as to the allegations set

forth in paragraph "108" of the complaint and respectfully refers all questions of law to the Court.

109. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "109" of the complaint and respectfully refers all questions of law to the Court.

110. Denies the allegations set forth in paragraph "110" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' SIXTH CAUSE OF ACTION

111. With respect to paragraph "111" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

112. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "112" of the complaint and respectfully refers all questions of law to the Court.

113. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "113" of the complaint and respectfully refers all questions of law to the Court.

114. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "114" of the complaint and respectfully refers all questions of law to the Court.

115. Denies the allegations set forth in paragraph "115" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' SEVENTH CAUSE OF ACTION

116. With respect to paragraph "116" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

117. Denies the allegations set forth in paragraph "117" of the complaint.

118. Denies the allegations set forth in paragraph "118" of the complaint.

119. Denies the allegations set forth in paragraph "119" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' EIGHTH CAUSE OF ACTION

120. With respect to paragraph "120" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

121. Denies the allegations set forth in paragraph "121" of the complaint.

122. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "122" of the complaint and respectfully refers all questions of law to the Court.

123. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "123" of the complaint and respectfully refers all questions of law to the Court.

124. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "124" of the complaint and respectfully refers all questions of law to the Court.

125. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "125" of the complaint and respectfully refers all questions of law to the Court.

126. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "126" of the complaint and respectfully refers all questions of law to the Court.

127. Denies the allegations set forth in paragraph "127" of the complaint.

128. Denies the allegations set forth in paragraph "128" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' NINTH CAUSE OF ACTION

129. With respect to paragraph "129" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

130. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "130" of the complaint and respectfully refers all questions of law to the Court.

131. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "131" of the complaint.

132. Denies the allegations set forth in paragraph "132" of the complaint.

133. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "133" of the complaint.

134. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "134" of the complaint and respectfully refers all questions of law to the Court.

135. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "135" of the complaint and respectfully refers all questions of law to the Court.

136. Denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "136" of the complaint and respectfully refers all questions of law to the Court.

137. Denies the allegations set forth in paragraph "137" of the complaint.

138. Denies the allegations set forth in paragraph "138" of the complaint.

AS AND FOR AN ANSWER TO
PLAINTIFFS' TENTH CAUSE OF ACTION

139. With respect to paragraph "139" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

140. Denies the allegations set forth in paragraph "140" of the complaint.

141. Denies the allegations set forth in paragraph "141" of the complaint.

AS AND FOR AN ANSWER TO

PLAINTIFFS' ELEVENTH CAUSE OF ACTION

142. With respect to paragraph "142" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

143. Denies the allegations set forth in paragraph "143" of the complaint.

144. Denies the allegations set forth in paragraph "144" of the complaint.

AS AND FOR AN ANSWER TO

PLAINTIFFS' TWELFTH CAUSE OF ACTION

145. With respect to paragraph "145" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

146. Denies the allegations set forth in paragraph "146" of the complaint.

147. Denies the allegations set forth in paragraph "147" of the complaint.

AS AND FOR AN ANSWER TO

PLAINTIFFS' THIRTEENTH CAUSE OF ACTION

148. With respect to paragraph "148" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

149. Denies the allegations set forth in paragraph "149" of the complaint.

150. Denies the allegations set forth in paragraph "150" of the complaint.

AS AND FOR AN ANSWER TO

PLAINTIFFS' FOURTEENTH CAUSE OF ACTION

151. With respect to paragraph "151" of the complaint, Walton repeats and realleges his responses to all preceding paragraphs as if fully set forth herein.

152. Denies the allegations set forth in paragraph "152" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

153. The complaint is based upon fraud, deceit and misrepresentations by the plaintiff.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

154. Plaintiff has committed wrongdoings and she is attempting to benefit from this wrongdoing in this lawsuit.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

155. The complaint fails to state a claim against Walton, both in his official and individual capacities upon which relief can be granted.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

156. The alleged incident and damages, if any, alleged to have been sustained by the plaintiff on the occasion(s) mentioned in the complaint were wholly or in part caused by the culpable conduct of the Plaintiff.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

157. The alleged incident and damages, if any, alleged to have been sustained by the plaintiff on the occasion(s) mentioned in the complaint, were wholly, or in part, caused by plaintiff's own contributory negligence.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

158. The alleged incident and damages, if any, alleged to have been sustained by the plaintiff on the occasion(s) mentioned in the complaint were wholly, or in part, caused by plaintiff's failure to mitigate her own damages.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

159. If it is determined that Walton was acting under the color of law, then his actions as a sworn police officer of the defendant, City of New York, were justified and were done in good faith, in that Walton reasonably believed he was exercising and acting within his statutory and constitutional powers.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

160. If it is determined that Walton was acting under the color of law, then Walton acted reasonably and in good faith in discharging his official duties and responsibilities, and as such Walton is entitled to qualified immunity.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

161. Plaintiff's complaint fails to set forth facts sufficient to constitute deprivation of any constitutional rights or other basis for a civil rights claim.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

162. All Causes of Action alleged in plaintiffs' complaint are barred by the applicable statute of limitations.

AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE

163. Upon information and belief, the injuries or damages alleged in the complaint were or may have been caused in whole or in part by parties now or hereafter to be named as co-defendants or third-party defendants and accordingly the liability of the answering Walton is, or may be limited by the provisions of Article 16 of the CPLR.

AS AND FOR AN TWELFTH AFFIRMATIVE DEFENSE

164. That any sums of consideration paid or promised to Plaintiff by any person(s) or corporation(s) claimed to be liable for the injuries or damages alleged in the complaint shall reduce any judgment rendered in favor of plaintiff as against Walton to the extent of the greater of either the sums or consideration paid or promised to Plaintiff or the amount of the released tortfeasor's (s') equitable share(s) of the damages in accordance with General Obligation Law §15-108, *et. seq.*

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

165. Any award for recovery of the cost of medical care, dental care, custodial care or rehabilitation services, loss of earnings, or other economic loss claimed by the plaintiffs shall be reduced to the extent that any such cost or expense was or will with reasonable certainty be replaced or indemnified from any collateral source pursuant to NY CPLR §4545.

WHEREFORE, Defendant Walton respectfully demands judgment against the Plaintiffs as follows:

- (a) Dismissing the Plaintiffs' complaint in its entirety;
- (b) Granting Defendant Walton costs, disbursements, expenses of the action, reasonable attorneys fees, and such other and further relief as this Court deems just and proper.

Dated: White Plains, New York

January 14, 2019

La Pietra & Krieger, P.C.
Attorneys for Defendant
DEPUTY INSPECTOR KEITH WALTON

By: 

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via ECF TO: Joseph Donnelly IV, Esq. (JD 4622)
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Civil Action No.: 18-CV-09532 (VEC)
United States District Court
Southern District of New York

MARILYN PEREZ,

Plaintiff,

-against-

THE CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT, and
DEPUTY INSPECTOR KEITH WALTON,

Defendants.

**Defendant Deputy Inspector Keith Walton's Answer to Plaintiff's
Complaint**

La Pietra & Krieger, P.C.
Attorneys for Defendant
DEPUTY INSPECTOR KEITH WALTON
30 Glenn Street Suite 105
White Plains, NY 10603
(p) (914) 684-6000
(f) (914) 287-6460

Pursuant to 22NYCRR 130-1-1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that upon information and belief and reasonable inquiry, the contentions contained in the annexed documents are not frivolous.

Dated: January 14, 2019

Signature: 
Print Signer's Name: Louis C. La Pietra

PLEASE TAKE NOTICE

☐ that the within is a (certified) true copy of a
NOTICE OF
ENTRY

☐ that an Order of which the within is a true copy will be presented for settlement
NOTICE OF
SETTLEMENT to the

LA PIETRA & KRIEGER, P.C.
Attorneys for Defendant -
DEPUTY INSPECTOR KEITH WALTON
30 Glenn Street, Suite 105
White Plains, NY 10603

To: Hon. Valerie E. Camproni
Presiding Justice

Joseph Donnelly IV (JD 4622)
SALENGER, SACK, KIMMEL & BAVARO, LLP
Attorneys for Plaintiff -
New YorkMARILYN PEREZ